

Chapter 34

MUNICIPAL CIVIL INFRACTIONS

Sec. 34-1. Definitions.

As used in this chapter:

- (a) *Act* means Act No. 236 of the Public Acts of 1961, as amended.
- (b) *Authorized city official* means a police officer or other personnel of the city, authorized by this Code or any ordinance to issue municipal civil infraction citations or municipal infractions violation notices. The following persons other than police officers are also authorized city officials authorized to issue municipal civil infraction citations or notices: The chief building inspector, the city engineer, the fire chief, the director of community development and planning, the director of public services and their authorized representatives.
- (c) *City* means the City of Midland.
- (d) *Municipal civil infraction* means an act or omission that is prohibited by any ordinance of the City of Midland, but which is not a crime under such ordinance, and for which civil sanctions, including without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of the Act. A municipal civil infraction is not a lesser included offense of any ordinance violation that is a criminal offense.
- (e) *Municipal civil infraction action* means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- (f) *Municipal civil infraction citation* means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited. (Ord. No. 1362, § 1, 1-6-97; Ord. No. 1424, § 6, 9-14-98; Ord. No. 1451, § 1, 5-17-99)

Sec. 34-2. Municipal civil infraction action; commencement.

A municipal civil infraction action may be commenced upon the issuance by an authorized city official of a municipal civil infraction citation directing the alleged violator to appear in court.
(Ord. No. 1362, § 1, 1-6-97)

Sec. 34-3. Municipal civil infraction citations; issuance and service.

Municipal civil infraction citations shall be issued and served by authorized city officials as follows:

- (1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- (2) The place for appearance specified in a citation shall be the 75th District Court.
- (3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the city and issued to the alleged violator as provided by Section 8705 of the Act.
- (4) A citation for a municipal civil infraction signed by an authorized city official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief.
- (5) An authorized city official who witnesses a person committing a municipal civil infraction shall prepare and

subscribe, as soon as possible and as completely as possible an original and three copies of either a municipal civil infraction citation or a municipal civil infraction violation notice.

- (6) An authorized city official may issue a citation to a person if:
 - a. Based on an investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the city attorney approves in writing the issuance of the citation.
- (7) Municipal civil infraction citations shall be served by an authorized city official as follows:
 - a. Except as provided by subsection 34-3(2)b. below, an authorized city official shall personally serve a copy of the citation upon the alleged violator.
 - b. If the municipal civil infraction action involves the use of occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building or structure of the owner's last known address.

(Ord. No. 1362, § 1, 1-6-97)

Sec. 34-4. Municipal civil infraction citations; contents.

- (a) A municipal ordinance citation shall contain the name of the city, the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- (b) Further, the citation shall inform the alleged violator that he or she may do one (1) of the following:
 - (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - (2) Admit responsibility for the municipal civil infraction "with explanation" by mail, in person, or by representation, at or by the time specified for appearance.
 - (3) Deny responsibility for the municipal civil infraction by doing either of the following:
 - a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city.
 - b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- (c) The citation shall inform the alleged violator of all the following:
 - (1) That if the alleged violator desires to admit responsibility for the municipal civil infraction "with explanation" in person, or by representation, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
 - (2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

- (3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city.
- (4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
- (5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(d) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.
(Ord. No. 1362, § 1, 1-6-97)

Sec. 34-5. Municipal civil infractions.

A violation of any of the following provisions of the City of Midland Code of Ordinances shall be a municipal civil infraction:

- (1) Chapter 8, International Fire Code.
- (2) The city zoning ordinance.
- (3) Chapter 29, Stormwater Runoff Regulation and Control.
- (4) Section 22-2 of Article I of Chapter 22, Sign placement in the city right of way areas.
- (5) Article VI of Chapter 15, Telecommunications.
- (6) Article IV, Chapter 22, Addresses.
- (7) Article V, Chapter 5, Soil Erosion and Sedimentation Control.
- (8) Rules and Regulations of the Jack Barstow Municipal Airport.
- (9) Cemetery Rules
- (10) Article I of Chapter 26, Weeds.
- (11) Article III of Chapter 3.

(Ord. No. 1362, § 1, 1-6-97; Ord. No. 1370, § 1, 3-17-97; Ord. No. 1424, § 6, 9-14-98; Ord. No. 1425, § 1, 9-28-98; Ord. No. 1451, § 1, 5-17-99; Ord. No. 1519, § 1, 10-8-01; Ord. No. 1547, § 1, 10-28-02, Ord. No. 1562 § 1, 6-23-03; Ord. No. 1584 § 2, 9-13-04; Ord. No. 1628, § 1, 2-12-07; Ord. No. 1634, § 1, 6-11-07; Ord. No. 1638, § 1, 7-23-07; Ord. No. 1696, § 1, 5-10-10; Ord. No. 1711, § 2, 11-22-10; Ord. No. 11721, § 1, 10-24-11)

Sec. 34-6. General penalties and sanctions for violations of ordinances; continuing violations.

(a) Unless a violation of an ordinance is specifically designated in the ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.

(b) The sanction for an ordinance violation which is a municipal civil infraction shall be a civil fine in the amount as provided by said ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of the Act, and other applicable laws.

- (1) Unless an ordinance specifically provides for a particular fine for a municipal civil infraction violation, the civil fine for a violation shall not be less than fifty dollars (\$50.00) plus costs and other sanctions, for each infraction.
- (2) Increased civil fines may be imposed for repeated violations of any ordinance. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision
 - a. committed by a person within any twelve-month period (unless some other period is specifically provided in the ordinance); and
 - b. for which the person admits responsibility or is determined to be responsible.

Unless otherwise specifically provided by any ordinance for a particular municipal civil infraction, the increased fine for a repeat offense shall be as follows:

- a. The fine for any offense which is a first repeat offense shall be not less than two hundred fifty dollars (\$250.00), plus costs.
- b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than five hundred dollars (\$500.00), plus costs.

(c) Each day in which any ordinance violation continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(d) The fines authorized under this section shall be in addition to any other remedy provided by law or ordinance and shall not diminish or impair the ability of the city to seek alternative or additional recourse or remedy for a violation of the provisions of the City of Midland Code of Ordinances, or this chapter.
(Ord. No. 1362, § 1, 1-6-97)

Sec. 34-7. Severability.

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court of competent jurisdiction hold any section, term or provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.
(Ord. No. 1362, § 1, 1-6-97)

Sec. 34-8. Repealer.

All ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.
(Ord. No. 1362, § 1, 1-6-97)